

# Order

Michigan Supreme Court  
Lansing, Michigan

February 3, 2006

Clifford W. Taylor,  
Chief Justice

129801

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 129801  
COA: 263104  
Oakland CC: 98-160800-FC

CHARLES ANDREW DORCHY,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the October 20, 2005 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

MARKMAN, J., dissents and states as follows:

I would grant leave to appeal to resolve what is, in my judgment, a significant constitutional question: whether the exception set forth in *Harrison v United States*, 392 US 219, 222 (1968), to the general rule that a defendant who chooses to testify in a first trial waives the privilege against compulsory self-incrimination in a second trial is applicable where, as here, such defendant testified in the first trial only after the government introduced evidence later found to be in violation of the Sixth Amendment. I would also resolve the apparent conflict between the the Court of Appeals decision in this case, which concluded that the *Harrison* exception applies only to evidence that is *both* illegally obtained and improperly admitted, and the Court of Appeals decision in *People v Armentero*, 148 Mich App 120, 126 (1986), which concluded that the *Harrison* exception applies to evidence that infringes upon any "basic constitutional value."

KELLY, J., joins the statement of MARKMAN, J.



d0131

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 3, 2006

*Corbin R. Davis*

Clerk